



Reprinted
February 28, 2006

ENGROSSED SENATE BILL No. 5

DIGEST OF SB 5 (Updated February 28, 2006 10:54 am - DI 84)

Citations Affected: IC 35-45; noncode.

Synopsis: Disorderly conduct at funerals and intimidation. Makes disorderly conduct a Class D felony instead of a Class B misdemeanor if it: (1) is committed within 500 feet of the location where a funeral, burial, memorial service, funeral procession, or viewing is taking place; and (2) adversely affects the funeral, burial, memorial service, funeral procession, or viewing. Makes intimidation a Class D felony instead of a Class A misdemeanor if the person to whom a threat is communicated is an employee of a: (1) court; (2) probation department; or (3) community corrections program.

Effective: Upon passage.

**Steele, Craycraft, Young R Michael,
Mishler, Zakas, Paul, Dillon, Drozda,
Jackman, Heinold, Gard, Kruse,
Nugent, Long, Meeks, Wyss,
Riegsecker, Weatherwax, Hershman,
Bray**

(HOUSE SPONSORS — ULMER, GRUBB, THOMAS, HARRIS T, GOODIN,
SMITH J)

January 9, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 10, 2006, amended, reported favorably — Do Pass.

January 17, 2006, read second time, ordered engrossed. Engrossed.

January 19, 2006, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

February 2, 2006, read first time and referred to Committee on Courts and Criminal Code.

February 16, 2006, amended, reported — Do Pass.

February 23, 2006, read second time, amended, ordered engrossed.

February 24, 2006, engrossed.

February 28, 2006, read third time, recommitted to Committee of One, amended; passed.
Yeas 92, nays 0.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 5

A BILL FOR AN ACT to amend the Indiana Code concerning
criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-45-1-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** A person
3 who recklessly, knowingly, or intentionally:

4 (1) engages in fighting or in tumultuous conduct;

5 (2) makes unreasonable noise and continues to do so after being
6 asked to stop; or

7 (3) disrupts a lawful assembly of persons;
8 commits disorderly conduct, a Class B misdemeanor.

9 ~~(b) However,~~ The offense **described in subsection (a)** is a Class D
10 felony if it:

11 (1) adversely affects airport security; and

12 (2) is committed in an airport (as defined in IC 8-21-1-1) or on the
13 premises of an airport, including in a parking area, a maintenance
14 bay, or an aircraft hangar.

15 **(c) The offense described in subsection (a) is a Class D felony if**
16 **it:**

17 **(1) is committed within five hundred (500) feet of:**

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- (A) the location where a burial is being performed;
- (B) a funeral procession, if the person described in subsection (a) knows that the funeral procession is taking place; or
- (C) a building in which:
 - (i) a funeral or memorial service; or
 - (ii) the viewing of a deceased person; is being conducted; and
- (2) adversely affects the funeral, burial, viewing, funeral procession, or memorial service.

SECTION 2. IC 35-45-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person who communicates a threat to another person, with the intent:

- (1) that the other person engage in conduct against the other person's will;
 - (2) that the other person be placed in fear of retaliation for a prior lawful act; or
 - (3) of causing:
 - (A) a dwelling, a building, or another structure; or
 - (B) a vehicle; to be evacuated;
- commits intimidation, a Class A misdemeanor.
- (b) However, the offense is a:
- (1) Class D felony if:
 - (A) the threat is to commit a forcible felony;
 - (B) the person to whom the threat is communicated:
 - (i) is a law enforcement officer;
 - (ii) is a judge or bailiff of any court;
 - (iii) is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;
 - (iv) is an employee of a school corporation; or
 - (v) is a community policing volunteer;
 - (vi) is an employee of a court;
 - (vii) is an employee of a probation department; or
 - (viii) is an employee of a community corrections program.
 - (C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or
 - (D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and

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(2) Class C felony if, while committing it, the person draws or uses a deadly weapon.

(c) "Threat" means an expression, by words or action, of an intention to:

(1) unlawfully injure the person threatened or another person, or damage property;

(2) unlawfully subject a person to physical confinement or restraint;

(3) commit a crime;

(4) unlawfully withhold official action, or cause such withholding;

(5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;

(6) expose the person threatened to hatred, contempt, disgrace, or ridicule;

(7) falsely harm the credit or business reputation of the person threatened; or

(8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.

SECTION 3. [EFFECTIVE UPON PASSAGE] IC 35-45-1-3 and IC 35-45-2-1, both as amended by this act, apply only to crimes committed after the effective date of this act.

SECTION 4. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 5, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 16, after "it" insert ":

(1)".

Page 1, line 17, delete "(1) a cemetery (as defined in IC 23-14-33-7) during", begin a new line double block indented, and insert:

"(A) the location where".

Page 2, line 1, delete "burial;" and insert **"burial is being performed;"**.

Page 2, line 2, delete "(2)", begin a new line double block indented and insert:

"(B)".

Page 2, line 3, delete "(3)", begin a new line double block indented and insert:

"(C)".

Page 2, line 5, delete "(4)", begin a new line double block indented and insert:

"(D)".

Page 2, line 6, delete "." and insert **"; and**

(2) adversely affects the funeral, burial, viewing, funeral procession, or memorial service."

and when so amended that said bill do pass.

(Reference is to SB 5 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 11, Nays 0.

 SENATE MOTION

Madam President: I move that Senator Craycraft be added as second author and Senators Young R Michael, Mishler, Zakas, Paul, Dillon, Drozda, Jackman, Heinold, Gard, Kruse, Nugent, Long, Meeks, Wyss, Riegsecker, Weatherwax, Hershman and Bray be added as coauthors of Engrossed Senate Bill 5.

STEELE

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 5, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 1, delete "funeral or".

Page 2, delete lines 3 through 4.

Page 2, line 5, delete "(C)" and insert "**(B)**".

Page 2, delete lines 8 through 9, begin a new line double block indented and insert:

"(C) a building in which:

(i) a funeral or memorial service; or

**(ii) the viewing of a deceased person;
is being conducted; and".**

and when so amended that said bill do pass.

(Reference is to SB 5 as printed January 11, 2006.)

ULMER, Chair

Committee Vote: yeas 9, nays 1.

 HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 5 be amended to read as follows:

Page 2, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 2. IC 35-45-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) A person who communicates a threat to another person, with the intent:

(1) that the other person engage in conduct against the other person's will;

(2) that the other person be placed in fear of retaliation for a prior lawful act; or

(3) of causing:

(A) a dwelling, a building, or another structure; or

(B) a vehicle;

to be evacuated;

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

(1) Class D felony if:

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- (A) the threat is to commit a forcible felony;
- (B) the person to whom the threat is communicated:
 - (i) is a law enforcement officer;
 - (ii) is a judge or bailiff of any court;
 - (iii) is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;
 - (iv) is an employee of a school corporation; ~~or~~
 - (v) is a community policing volunteer;
 - (vi) is an employee of a court;**
 - (vii) is an employee of a probation department; or**
 - (viii) is an employee of a community corrections program.**
- (C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or
- (D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and

(2) Class C felony if, while committing it, the person draws or uses a deadly weapon.

(c) "Threat" means an expression, by words or action, of an intention to:

- (1) unlawfully injure the person threatened or another person, or damage property;
- (2) unlawfully subject a person to physical confinement or restraint;
- (3) commit a crime;
- (4) unlawfully withhold official action, or cause such withholding;
- (5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;
- (6) expose the person threatened to hatred, contempt, disgrace, or ridicule;
- (7) falsely harm the credit or business reputation of the person threatened; or
- (8) cause the evacuation of a dwelling, a building, another structure, or a vehicle."

Page 2, line 11, after "IC 35-45-1-3" delete "," and insert "**and IC 35-45-2-1, both**".

Page 2, line 12, delete "applies" and insert "**apply**".

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Renumber all SECTIONS consecutively.

(Reference is to ESB 5 as printed February 17, 2006.)

GOODIN

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 5 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Replace the effective dates in SECTIONS 1 through 3 with "[EFFECTIVE UPON PASSAGE]".

Page 3, line 22, delete "June 30, 2006." and insert "**the effective date of this act.**".

Page 3, after line 22, begin a new paragraph and insert:
"SECTION 4. **An emergency is declared for this act.**".

(Reference is to ESB 5 as reprinted February 24, 2006.)

ULMER

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 5, begs leave to report that said bill has been amended as directed.

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